

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

District of

Division

RECEIVED

JUN 23 2020

US DISTRICT COURT
MID DIST TENN

Case No.

Philander McFarland

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

L. Ellen, J. Snorderly, Roundtree,

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Philander McFarland
 All other names by which
 you have been known: _____
 ID Number #16362-075
 Current Institution USP-Beaumont
 Address P.O. Box: 26030
Beaumont TX. 77720
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name L. Ellen
 Job or Title (*if known*) unit officer
 Shield Number _____
 Employer _____
 Address United States Penitentiary-Hazelton P.O. Box: 450
Bruceston Mills West Virginia 26525
City State Zip Code
☒ Individual capacity ☒ Official capacity

Defendant No. 2

Name J. Snorderly
 Job or Title (*if known*) case manager / correctional counselor
 Shield Number _____
 Employer _____
 Address United States Penitentiary-Hazelton P.O. Box: 450
Bruceston Mills West Virginia 26525
City State Zip Code
☒ Individual capacity ☒ Official capacity

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

Defendant No. 3

Name

Roundtree

Job or Title (if known)

case manager / correctional counselor

Shield Number

Employer

Address

United States Penitentiary - Hazelton P.O. Box: 450

Bruceston Mills
CityWest Virginia
State26525
Zip Code☒ Individual capacity☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐ Individual capacity☐ Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☒ Federal officials (a *Bivens* claim)

☐ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

United States constitutional violation “14” amendment

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Roundtree acted under color of federal law by only referring to J. Snorderly.
L. Ellen and J. Snorderly acted under color of federal law, by not re-assigning away from cell away from Williams-90839-083 perverted action.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose. The events giving rise to my claim arose ~~from across~~ the United States year 2020, 2019, 2018, 2017, 2016, 2015, 2014, 2013. Describe how ~~the~~ defendants was personally involved in the alleged wrongful action. Defendants have confused personal patriotism ~~into~~ for crime.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose. In August Williams-90839-083 and McFarland-16362-075 were assigned to A1-cell 203 United States Penitentiary-Hazleton WV. 26525. L. Ellen unit officer of A1 notice an Federal Bureau of Prison Prohibit act violation "205" Engaging in a sexual act at cell 203. with Williams and another inmate. McFarland was not involved. L. Ellen dispatch yard officer and only that inmate was taken to the SHU, not Williams. At that time, I inform L. Ellen to be reassigned away from Williams perverted action, and then informed J. Snorderly case manager/correctional counselor. To be re-assigned away from Williams perverted action. Only to be force and re-assigned to A1-cell 103 with Williams in September. I am a prisoner an under imminent danger of serious physical injury.

C. What date and approximate time did the events giving rise to your claim(s) occur?

~~2017, 2016, 2015, 2014, 2013~~ August, and September 2019, ~~and before 2019, 2018,~~

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

~~2~~ Extend fight outside of cell 103 cause arm-assult by Williams. McFarland and Williams went to SHU
~~1~~ Inside of cell 103 Williams 90839-083 arm-assulted McFarland #16362-075 with serious physical injuries. To the cranium. I then had a unbalanced ~~personal fall.~~

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Damage ~~to the~~ cranium, I requested something for serious pain and have not receive it for serious pain to the cranium, which is a boil type injuries, with swelling. Cause from arm-assulting from Williams. I have not receive the proper operation to have this type of injuries remove. ~~Ramos, Luis Medical Doctor has review~~ boil type injuries to cranium. at USP-Beaumont Beaumont TX. 77720.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I need boil type injuries ~~Remove~~ to remove swelling, by operation only.
 Explain the basis for this claim. I might die..

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

United States Penitentiary - Hazelton Bruceston Mills West Virginia 26525

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☒ Do not know

If yes, which claim(s)?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

inform J. Snorderly

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

st 1 nd 2 inform J. Snorderly of below incident. Only to be re-assigned ~~to~~ force to A1-103 with Williams
 she notice prohibit violation act Federal Bureau of Prisons "205" Engaging in a sexual act to
 be re-assigned away from ~~cell~~ cell A1-203. From Williams perverted action. "No response"
 G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☒ Yes

☐ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

United States District court of Tennessee 6th

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) Philander McFarland

Defendant(s) S. Pool

2. Court *(if federal court, name the district; if state court, name the county and State)*

United States district 6th

3. Docket or index number

4. Name of Judge assigned to your case

"Sharp"

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

Dismissed

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

yes

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

☒ Yes☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) Philander McFarland

Defendant(s) Castell

2. Court *(if federal court, name the district; if state court, name the county and State)*

United States district 6th

3. Docket or index number

4. Name of Judge assigned to your case

"Hayes"

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

dismissed

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 6-13-2020

Signature of Plaintiff

Philander McFarland

Printed Name of Plaintiff

Philander McFarland

Prison Identification #

16362-075

Prison Address

USP-Beaumont P.O. Box 26030

Beaumont
City

TX.
State

77720
Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

Philander M. Farland #16368-075
USP-Beaumont
P.O. Box 36030
Beaumont, TX. 77700

United State Courthouse
800 - Room 876
Nashville TN. 37203

37203-99995



NORTH HOUSTON TX 773
16 JUN 2020 PM 5:1



RECEIVED

JUN 23 2020

US DISTRICT COURT
MID DIST TENN

